

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
SEPTEMBER 12, 2018**

CALL TO ORDER
6:00 pm

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at South Campus Building, 40 11th Street W, Ste. 200, Kalispell, Montana. Board members present were Jeff Larsen, Greg Stevens, Sandra Nogal, Dean Sirucek, Ron Schlegel, Kevin Lake, and James Thompson. Mike Horn had an excused absence. Mark Mussman and Erik Mack represented the Flathead County Planning & Zoning Office.

There were 27 members of the public in attendance.

**APPROVAL OF
MEETING
MINUTES**
6:01 pm

Schlegel made a motion, seconded by Lake, to approve the August 08, 2018 meeting minutes.

Motion carried by roll call.

**PUBLIC
COMMENT**
*(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)*
6:01 pm

None

**FZTA TEXT
AMENDMENTS**
(FZTA-18-02)
6:00 pm

A request by the Flathead County Planning Board for multiple amendments to the Flathead County Zoning Regulations. The character of many of the purposed amendments can generally be described as ensuing consistency in language throughout the regulations and to rearrange the placement of use districts in a more logical order. More significant amendments include, but are not necessarily limited to: eliminating zoning use districts from regulations, renaming other zoning use districts from the regulations, complete revision of the sign regulations, and adding deleting definitions. *This agenda item was a continuation of the August 8, 2018 planning board meeting.*

STAFF REPORT
6:02 pm

Mark Mussman reviewed staff report FZTA-18-02 for the board.

Erik Mack went over the text amendment recommendations for the section of the signage.

**BOARD
QUESTIONS**
6:35 pm

Sirucek voiced a couple concerns over the agricultural "AG" changes. Currently there was no mention of wetlands. He said if you looked at the maps and how the AG lands were zoned, in many cases those were primary acreages within the wetlands. He felt one of the uses that should be talked about was conservation and needed to be added in the definition of resource.

Mussman agreed that there was a significant amount of conservation uses on larger agricultural properties.

Sirucek said there were a lot of AG-80's in the lower valley that had occurring in wetland and riparian situations. It was a significant portion.

Schlegel pointed out it was designated in the floodplain. Sirucek said in most cases it was zoned as an AG.

Mussman said that most were zoned in AG and the flood regulations allowed agricultural uses without a permit. He had to ponder it. He felt it could be added as a permitted use conservation and a definition should be added as well.

Sirucek also wanted to make a pitch that they addressed the issues that arose when there were family splits in an AG-20 to a SAG-5. He felt the current process was not family friendly for an agricultural family because it turns into suburban use. He asked the board look at allowing 1 family split if two criteria were met; the land use would not change with the split and a significant amount of acreage within the ownership would not change from an agricultural use to a non-agricultural use. He felt three things were true; the population of the earth has doubled in his lifetime, smaller agricultural units were becoming more economically viable in this valley than they had been in the past, and science supported the fact that the prime soils from this valley were going to be even more of a national resource than they presently were due to climate change. From a national perspective, he felt that we owed it to preserve the agricultural land as much as possible.

Stevens wondered what the definition of a feedlot was and if there were any present in Flathead Valley. Mussman read the definition in which Stevens pointed out that it was a principle use of the property.

Stevens also wondered if there was a copy of Title 76 for review later.

Due to the zoning text amendments being a fairly comprehensive review of the zoning regulations, Mussman told the board they could separate some of the issues presented tonight and to do workshops at a later date. Some changes would be "no brainers" and some of them were not. They could remove the more difficult issues to address the easier ones at this time.

Schlegel asked if they had access to the map that was shown. Mussman said that he did not have access to the internet but that it was easily accessible from the GIS website for people to view from home.

**AGENCY
COMMENTS**
6:52 pm

None

**PUBLIC
COMMENT**
6:53 pm

Alan Williams, 1700 Steel Bridge Road, had several questions. He wondered if the median number of acres for the AG-80 and AG-40 zones were available. Given the percentages of actual AG-80 and AG-40 parcels, it sounded like there were a lot of smaller parcels. Larsen replied that they did not have that type of information yet but they would try to get that information so that the board and the public could have it.

Williams also asked where the majority of the AG-80 and AG-40 parcels were located in the valley. Larsen said that there were zoning maps available, although not presently, but they were available on the website.

Williams also wondered what percentage of the county was zoned AG-80 and AG-40. Larsen said that they would get the information. Mussman said it would be easy to get the figures, however, a county wide zone map is problematic because of family zoning, but they would try to accommodate a lot of that.

Forest Nelson, 264 El Rancho Rd., said he ran some data and graphs based on the information he was given by the director. He discussed at great length how his data showed that the new consolidation of AG would not meet the intent of compliancy. He questioned if it was a bookkeeping issue. He felt, instead of reducing the lot size, there should be multiple principle uses per tract. He was in opposition of the consolidation of the AG zoning. He asked that all regulations be evidence based only.

LeAnne Siderius, 1525 Stillridge Rd., spoke in opposition of the agriculture consolidation zoning in her neighborhood. She provided a map from Lower Valley Road to East to Fairmont Road. She knew that there were not a lot of 80 acre tracts but there were a lot of 40 acre tracts. She said they were owned by mostly 7 or 8 farming families and was concerned that her neighborhood would become a nightmare. She showed about 3,000 acres, owned by 5 neighbors who opposed the consolidation. She said she could not speak to the other areas of the valley but she could speak of her neighborhood. She appreciated Sirucek's concern for family transfers in farming families but she was concerned that down the road they would be sold. She was also confused about the feedlot and seeding portion of the zoning regulations. She asked for

clarification because feedlots and seeding were two permitted uses in AG-80 that were not permitted in AG-20. She asked if AG-20 would then be allowed to have those as permitted uses and Mussman replied yes.

Linda Newgard, 905 Clark Dr., was in agreement with what had been shared prior. She felt that in order to keep Flathead Valley Residents informed, they needed to have maps available to show where the AG-80 and AG-40 tracts were. In trying to find out if it would affect her neighborhood, she was able to pull up the neighborhood plan. She felt that a lot of the area should be seriously looked at for its conservation and other qualities, not just consolidating it for AG. She saw problems that could be created by the permitted uses in AG-80 and AG-40 and AG-20 creating a lot of unnecessary work because people would assume what they could and could not do. She also wondered if consolidating to AG-20 would create a lot of extra work for the planning office because people would assume what would be permitted. She had corresponded with many people who had moved and invested in West Valley under the premise that there were certain permitted uses and certain unpermitted uses. She was concerned that splitting larger lots (i.e. an AG-80 in to four AG-20s) would create more traffic. She wondered if there were only a small percentage of people who would be affected, why push for it? She asked that hard data be looked at and evidence be looked at to make a decision.

Dan Graves with Whitefish Mountain Resort, 192 Sweetgrass Way, addressed some text changes they wanted to bring about in Big Mountain Resort Residential "BMRR" zoning. He provided data of the homes on the mountain and what was going on currently. Currently there were many permanent home owners who lived there full time, secondary home owners who lived up there part of the time, and people who came up for a short amount of time to vacation. He said what they were looking for in the BMRR regulations, was something similar to the same language in short term rentals regulations; specifically related to the quiet enjoyment of the property. He gave examples of what could occur because they did not have the regulations (i.e. stag parties weekend after weekend). They did not have any jurisdiction to help regulate because they did not have any regulations and restrictions to help. They wanted to have the same noise limits and time limits as restricted in short term rentals. He also wanted to have contact information so that they could get a hold of an owner if they had a problem with the rentals when they were disturbing the peace. He said if they were having a problem within the resort, they had the authority, but they would really appreciate the text change.

Mark Siderius, 1066 Steel Bridge Road, addressed the question on feed lots. He shared the history regarding the USDA imposing a program that confined feedlots and livestock operations. He said anybody who currently had an operation were in compliance with Federal Regulations. He did not think there would be any feed lots in the future. He spoke in opposition the AG

Consolidation. He felt like AG-20 was not viable and it should actually be Suburban Agricultural "SAG"-20. He said you could not have a viable farm on AG-20. He felt it was not a realistic designation and said that the majority of the land ownership in his neighborhood was present tonight; it hadn't changed hands in generations. He questioned the legality of changing the zoning because it was a citizen petitioned initiative. He felt that they were trying to impose a change that would be detrimental to the agriculture development.

Tom Clark, 1190 Clark Dr., disclosed that he was a candidate for county commissioner. He felt that the county needed to try to keep the farming community viable and spoke in opposition of consolidating the AG80's and AG-40's. He said that AG-20 wasn't really agricultural and in order to grow produce you needed about 40 acres. He was in favor of agriculture because he was from a farming family and felt the green belt was what drew people to this area. He wondered why this was brought to the board to begin with and said that there was an obligation to bring that forward.

Larsen and Mussman both confirmed that the staff was just trying to streamline the regulations, there was no agenda or anybody behind it. Mack said that, as a staff member, they did receive calls from people with AG-80 or AG-40 who wanted to split their property and were unable to do it because of the minimum lot size restriction. That was how the idea was created. Larsen explained that this whole process was brought about because there were a lot of nuances that had been found in the regulations, which the staff had kept track of, and had brought forward to propose zoning text amendments. Larsen said that it did not mean that they were going to pass everything as it was written. He was grateful for the public input. He also said that they have seen things come up as a Planning Board but the Staff saw it on a daily basis.

Ronny DeYoung, 99 Riverside Rd., said he had been a part of the initial process of zoning the AG-80. He wanted to make sure they maintained agricultural use and space. He said the fastest way to eat that up was in 20 acres; ending up with dry horse pastures. He agreed that AG-20 was problematic. He was confused by the statistics given regarding compliant AG-80 and AG-40. He also expressed that there should be flexibility due to the inaccuracy of surveying. He said that a parcel of land could be 79.2 and feel like AG-80 but not be compliant because surveying was not always accurate. He asked that AG-80 and AG-40's be taken off the agenda.

Kirk Hammerquist, 470 Kinsehl Rd., was an owner of a non-conforming piece of acreage. He questioned if on his land, he could allow one of his children to remain in the homestead and he could build a guest house to live in. Mussman said that permitted uses in the AG zones were single family dwelling, guest house, and an accessory dwelling unit. There were size restrictions and he explained those. Hammerquist said that the main drawback

was the bank would not give a loan for a property without a deed. He felt like it was something that should be considered.

Erika Wirtala with NMAR, 110 Cooperative Way, represented their view point this evening. She started off by saying she was glad that the board was addressing the zone amendments because they needed to be streamlined and more user friendly. She had worked on the regulations as a planner in the past; specifically the cell phone towers many years ago. She said they needed a work over. She reviewed all the changes that she believed needed to be addressed or changed. She had a few questions. One was the suggestion of eliminating the Business District Highway Belt "B2HG" zone or making changes to the West Valley Zone; those were a couple of examples of zoning that was community led and she wasn't sure it could just be stricken out of the regulations as a part of streamlining. She continued to go through each section of the zoning regulations in great detail and gave suggestions of what could be changed and/or addressed to help streamline them.

LuAnn Borgen, 206 Sibling Lane, did not presently have AG-80 land but lived in an area with AG-80 zoning and wanted to give her input. She shared the history of the Egan Slough District. She was in opposition of consolidating the AG zones and talked about how important it was to keep land within the family. She said not to underestimate farmers that own smaller parcels of land.

Paul Roybal, 100 Roybal's Way, owned property in Business "B"-2 zoning district. He asked the board and planners to consider the portion of the B-2 zoning which said "it should serve the general needs of the tourist and the traveler" to include short term rentals added as a permitted use. He said it was the same as a hotel and motel. He owned a flooring store locally and said he did all that he could to diversify business. He said internet was affecting his flooring business and he need to stay diversified as much as possible. He hoped that amendment change could be added to the other things being considered.

Dawn Marquardt with Marquardt Surveying, 201 3rd Ave W., commended the board for taking on this project and said that it was long past due. She was the current county surveyor and saw every survey that came through the county. She worked closely with the rules and tried to follow them. One of the rules that she had struggled with was the definition of "flag lot". She saw numerous lots in zoned areas, specifically SAG-5 and SAG-10 zones, which would be considered flag lots based on the definition. Based on the definition, flag lots were not allowed in those zones. She wanted the definition to be clarified and then decided upon which zones it should be or should not be allowed in. She also questioned the process of determining whether a lot meets the minimum lot size and taking in consideration easements. She said that easements did not seem to come in to play except for in AG-20 zone. She was confused as to

why it would come in to play in that zone but not in the SAG-10 or SAG-5 zone. Those were the two definitions she was concerned about. She said that even the BOA seemed confused by it.

Sirucek addressed issues the board had seen in the past when a tract of land was 19.99 acres and did not meet the definition of a 20 acre parcel and therefore needed to be zoned something smaller. He liked the idea that there needed to be some type of leeway there because of how surveys were set up. He asked Marquardt how something, to that affect, could be worded based upon her experience. He felt it was ridiculous to measure things out to three decimal places because they could and thus causing zone changes based on the third decimal point. Marquardt said that she agreed but she did not have the answer. She suggested a percentage and referenced a zoning district that had a formula that allowed it to be divided once if it was within a certain percentage of the area.

Jan Finkle, 64 Wendt Way, she was in agreement with the previous cell tower comment that had been made and felt it should be a conditional use. She said the focus on the valley was to preserve a quality of life that did not exist elsewhere. She also asked that they eliminate the AG consolidation recommendation.

John Stebbins, 218 Egan Rd., was a farmer that had been on his land since 1908. He said if it went down to AG-20 lots it would become a subdivision. He was a part of the petition that DeYoung helped create for zoning in that area. He questioned how the board could change that if it had been ordained by the people. He also questioned the process for a family split and he would like to see it easier for a family member to come out to live on the farm and help him out.

Jenae Schmautz, 473 Kinshella Rd., said she was a second generation living on the farm. She said the AG-80 currently protected the land and the beauty of the place including quality of life that comes with farming. She said that was slowly being lost. She asked that they take the AG-80 and AG-40 consolidation off the table.

LeAna Sacrison, 1895 Steel Bridge Road, moved in to the neighborhood 42 years ago. She said the neighbors were happy with the neighborhood as it was and spoke in opposition of changing the AG zoning. She knew that there were complications with family transfers. She said that they were looking at the same situation but was willing to figure it out.

Charlene Iannucci, 597 Clark Homestead Lane, said she was the poster child for family splits. She shared how her father had split off the land between her and her siblings. They still owned it and it had worked for them. They had not sold it off for profit.

**BOARD TOOK A
BREAK
8:17 pm**

**APPLICANT
REBUTTAL/
COMMENTS
8:28 PM**

Mussman said if the agricultural zones were consolidated to just AG, they would not be considered all 20 acre parcels. He said if one did not want to split their property, they didn't have to. He did state the AG discussion could be reserved for another time to see what they wanted to do with it. He continued to address the concerns and thoughts that were brought up this evening.

- He agreed there was a need to identify the conservation use and also need to address how the farm families could maintain that way of life and pass it on from generation to generation. He felt they could get to it but maybe not this time around. He further discussed how the board could go through this process.
- He said that they had 48 zoning use districts and that was problematic.
- He felt it was a fantastic idea to eliminate the West Valley Overlay because none of it was zoned West Valley and a lot of the overlay had been annexed in to The City of Kalispell.
- He addressed the request to eliminate regulations regarding the distance from the roads to county roads. He recalled that there had been zone variances that were approved with no issues. He said that there were other standards that could produce steep and barely safe roads even after going through family transfers and COS.
- He said there was nothing currently zoned B2HG. Since it had been adopted, they had also adopted the South Whitefish Overlay and felt that did more to advance the goals of the B2HG than the B2HG itself did. He said had the SWO not been adopted, he would not have included it in his recommendation.
- He addressed the suggestion that all cell towers be conditional uses and mentioned that he believed almost all cell tower in the area were in unzoned areas.
- He addressed the bed and breakfasts as a CUP and the rural area commercial as a permitted use; he said that a hotel was very similar to a bed and breakfast.
- He said multiple principle uses were an issue. Every zone that allowed agricultural use on it, also had a permitted residential use, which he interpreted as a multiple use. He said that you could have a home occupation that met the performance standards or you go through a conditional use permit process for an accessory building. He said there were opportunities to have multiple uses.
- He said lot size calculation was proposed to be changed. It would not only include the AG zones but also SAG-2.5 and SAG-1. This could include the easement and do an estimated gross.

- He said flag lot definition came straight out of the planner's dictionary. Larsen said it was not a very good definition. Mussman agreed it was something that might need to be looked at a little more. Sirucek asked if it would be beneficial to have diagrams and Mussman said it would be a great idea.
- He addressed having short term rentals in a commercial zone. He said, as it was now, short term rentals were a residential use. Having a residential use in a commercial zone was contradictory. He felt the definition of a hotel/motel might need to be changed.

**BOARD
DISCUSSION
8:40 pm**

Mussman felt that there was too much tonight to make a recommendation and proceeded to discuss how the board could move forward with the recommendations.

Nogal asked if they could move forward with the signage portion to get that cleared off the deck. Mussman said they could. Nogal was trying to break it down a little bit. Nogal asked if they could put aside the AG consolidation recommendation. Larsen agreed with Nogal that the biggest concern was the agricultural zoning consolidation and agreed it should be put off. He felt there were other good comments brought up tonight that they should address. The board continued to address what sections to address first and when. It was agreed that the consolidation of the AG zones should be taken off the table. Mussman said the signage had been looked at multiple times. Mussman said it was essential the West Valley Overlay be eliminated. He also wanted to address the caretakers and ranch employee housing as well as bed and breakfasts being permitted use in some zones.

Sirucek made the recommendation that the agricultural zoning consolidation be addressed at a different time. He also suggested they postpone looking at bed and breakfasts and the new regulations for short term rentals to ask some questions about how they fit with different zones and geographical areas in the valley. He felt some workup should be done to look into that. He foresaw those were the two issues that were going to have some pushback either way. He felt some of the geographical areas were going to be problematic. Mussman said they had not addressed the performance standards. He was under the impression the board wanted to know where the permitted resort dwellings were located and what zones they were a permitted use in. Larsen said it would be good to know. Mussman said, at the end of the day, they wanted to address performance standards on short term rentals and dwellings resort as a permitted use; which would both reference standards in chapter 5.

Mussman also suggested that they address a few items in October and to get them out of the way. Larsen said that, from what he heard, there were not that many big issues to be addressed if the agricultural zoning consolidation was taken off the table at this time.

Mussman said he would make sure they got information about where short term rentals were a permitted use. He might come up with some choices on flag lot definition. Larsen wondered if they could be applied to other zones and asked that staff discuss and bring that information back.

Schlegel clarified that a couple items could be voted on at the next meeting and they could discuss a few more. Mussman said they could at least try to make one recommendation at a time depending on the meeting.

Stevens was concerned that the board could provide the type of language that Big Mountain was requesting to help him. Mussman said he had discussions with Graves. Larsen said it wasn't going to solve his problem. Mussman agreed that there were going to be people up there that rent short term and will have wild and crazy parties. It may even be the property owner's themselves. He felt that, for everything thing else, it will solve a lot of the problems.

Stevens questioned the short term rentals in the B2. Mussman said in order to do that they would have to change the definition of a hotel and motel. Stevens asked if they could do that and Mussman said they could. Larsen asked if he would come back with a recommendation and Mussman said he would.

Sirucek said it would be nice to have a table of the different zones and how the new B&B would fit and where they would be located at.

Stevens asked that Mussman think about Title 76 2-2-02 regarding manufactured housing. Stevens brought up the zoning regulations for manufactured homes, specifically class A, stating homes be 1976 or newer. He felt the definition of Class A Manufactured Homes should be in line with state definitions saying they should be from 1990 or newer as well as other regulations. Mussman discussed why it might become problematic. Stevens asked that it be given consideration because he saw it as being problematic that there could be a newer and nicer singlewide home that would be noncompliant, replaced with a 40 year old double wide that would not be as nice but compliant. He felt like the state definition should be used. Mussman said the permanent foundation may be an issue. There was discussion on what could be converted in to real property and in what zones. They discussed definitions of property from a tax assessment. Stevens asked Mussman to look at it. He also gave the suggestion of a conditional use process for the R-2.5 and R-1 as being an option. Stevens clarified that he wanted to allow the state defined manufactured homes allowed in the R-2.5 and R-1 zones. Larsen agreed that it was a good thing to look at. Mussman agreed.

OLD BUSINESS
9:10 pm

None

NEW BUSINESS None
9:10 pm

MEETING The meeting was adjourned on a motion by Schlegel and Nogal at
ADJOURNED approximately 9:10 pm. The next meeting will be held October 10, 2018 pm.
9:10 pm



Jeff Larson, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 10 / 10 /18